

## NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

### NOTICE OF EXEMPT RULEMAKING

#### TITLE 9. HEALTH SERVICES

#### CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION

*Editor's Note: The following Notice of Exempt Rulemaking was reviewed per Executive Order 2010-13 as issued by Governor Brewer. (See the text of the executive order at 16 A.A.R. 1183, July 2, 2010.) The Governor's Office authorized the notice to proceed through the rulemaking process on July 12, 2010.*

[R10-105]

#### PREAMBLE

- 1. Sections Affected**  
R9-22-206
- Rulemaking Action**  
Amend
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 36-2907  
Implementing statute: A.R.S. § 36-2907; Laws 2010, 7th Special Session, Ch. 10 (2010, 49th Legislature, 7th Special Session, HB2010)
- 3. The proposed effective date of the rules:**  
July 15, 2010
- 4. A list of all previous notices appearing in the *Register* addressing the proposed exempt rule:**  
None
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Mariaelena Ugarte  
Address: AHCCCS  
Office of Administrative Legal Services  
701 E. Jefferson St., Mail Drop 6200  
Phoenix, AZ 85034  
Telephone: (602) 417-4693  
Fax: (602) 253-9115  
E-mail: AHCCCSRules@azahcccs.gov
- 6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from regular rulemaking procedures:**  
The AHCCCS Administration is proposing rule changes to delineate the service limitations/ exclusions as described in Laws 2010, 7th Special Session, Ch. 10. This rulemaking specifically addresses the exclusion of Pancreas-Only transplants included in the legislation. This rule clarifies the AHCCCS Administration's long-standing interpretation of its current policy regarding coverage of transplantation of a pancreas by itself (which, as a result of the recent legislation is now reflected in statute). This rule clarifies that the exclusion of pancreas-only transplants includes the transplantation of a portion of the pancreas. This exclusion also precludes coverage from islet cells derived from the pancreas. The AHCCCS Administration plans to file a separate rule amendment at a later date to implement the remainder of the legislation. This rule regarding pancreas-only transplants is being implemented immediately to avoid the costs associated with any pancreas-only transplants that may be sought between now and the effective date of the comprehensive revision of the rule.  
The AHCCCS Administration is exempt from the rulemaking requirements of A.R.S. Title 41, Chapter 6, as described in Laws 2010, 7th Special Session, Ch. 10, § 34.

Notices of Exempt Rulemaking

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:  
No studies were relied upon for the implementation of this rulemaking. The rule implements a statutory change.
8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:  
Not applicable
9. The summary of the economic, small business, and consumer impact:  
The Administration estimates that between one to 10 members per year may be impacted by the proposed limitations/exclusions of pancreas transplant services the cost of which is estimated to be approximately \$100,000.00 per transplant.
10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):  
Not applicable
11. A summary of the comments made regarding the rule and the agency response to them:  
Not applicable
12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:  
Not applicable
13. Incorporations by reference and their location in the rules:  
None
14. Was this rule previously made as an emergency rule? If so, please indicate the Register citation:  
No
15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM  
ADMINISTRATION

ARTICLE 2. SCOPE OF SERVICES

Section

R9-22-206. Organ and Tissue Transplant Services

ARTICLE 2. SCOPE OF SERVICES

**R9-22-206. Organ and Tissue Transplant Services**

- A. ~~Under A.R.S. § 36-2907, organ~~ Organ and tissue transplant services are covered for a member if prior authorized and coordinated with the member's contractor, or the Administration. The following transplants are covered for individuals 21 years of age or older:
  1. Heart.
  2. Liver.
  3. Kidney (cadaveric and live donor).
  4. Simultaneous Pancreas/Kidney (SPK).
  5. Autologous and Allogeneic Related Hematopoietic Cell transplants.
  6. Cornea, and
  7. Bone.
- B. ~~Organ and tissue transplant services are not covered for qualified aliens or noncitizens members of FESP under A.R.S. § 36-2903.03(D).~~
- B. Pancreas transplants are not covered for individuals 21 years of age or older if it is not performed simultaneously with a kidney transplant (pancreas only transplants). Partial pancreas transplants and autologous and allogeneic pancreas islet cell transplants are not covered even if performed simultaneously with a kidney transplant.
- C. Organ and tissue transplant services are not covered for qualified aliens or noncitizens members of FESP under A.R.S. § 36-2903.03(D).